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10/696,180

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Bob Myrick

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EXAMINER

EVANS, KIMBERLY L

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/696,180	<b>Applicant(s)</b> MYRICK ET AL.	
	<b>Examiner</b> KIMBERLY EVANS	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/24/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Response to Amendments**

1. This action is in reply to the response filed on May 4, 2009.
2. Acknowledgement is made that the applicant has amended claims 1-3, 7, 9-14, 16, 17 and 19.
3. Claims 4-6 have been canceled.
4. Claims 1-3 and 7-19 are currently pending and have been examined.
5. The rejections of claims 1-3, and 7-19 have been updated to reflect the amendments.
6. The Examiner has carefully reviewed the Applicant's response and has determined that the rejection stands and is resubmitted below addressing the claims as modified by said amendments.

### **Information Disclosure Statement**

7. The Information Disclosure Statement filed on February 24, 2009 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### **Claim Rejections - 35 USC § 102**

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3, 7-11, 13, 14, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hilbush et al. US Patent Application Publication No. US 2005/0038758 A1

9. With respect to Claims 1, and 2

Hilbush discloses the following limitations,

- *using a computer system over the Internet to register a customer with an alternate delivery location (ADL) service provider to receive a product at an alternative delivery location (ADL) other than the customer's home or business address before purchase of the product by the customer,*
- *wherein the step of using a computer system to register the customer is performed by the customer accessing the computer system via a website of an ADL service provider via the Internet using a web browser. (see at least Abstract: "...A system and methods for shipping a package (12) from a package sender (16) to an intended recipient (18), utilizing Internet communications (30) to place shipping orders, request on demand package pickup, maintain and utilize prestored profile information, view shipping history, track orders, etc...."; paragraph 169: "...the user selects a REGISTER button (not shown) at step 226 to access a REGISTRATION/MEMBER INFORMATION screen..")*
- *wherein the customer selects the ADL from a list of ADL provided by the computer system and the ADL and is stored in memory of the computer system (see at least paragraph 191: "...the steps of routine 272 are operative to receive the user's input and determine whether the user has decided to return to a previous page, select certain other member options displayed in a parallel navigation menu on the MEMBER SERVICES screen, set or make changes to the shipping preferences, set and/or verify service type from a drop-down list, set and/or verify package type from a drop-down list, set and/or verify a SHIPPING START page from a drop-down list, verify shipment history, set and/or verify a shipment ready time or set a new time, set and/or verify a pick up time, cancel changes, or update the changes...")*

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- *retrieving the ADL from the memory for use in shipping the product to the customer upon notification to the computer system by a vendor computer system over the Internet that the customer has purchased the product*
- *providing the ADL to the vender computer system to use as a shipping location for the product purchased by the customer and*

(see at least paragraph 12: "...a communication system and method for communicating the dispatch order to a selected service person, whereby the selected service person, in response to receipt of the dispatch order, picks up the package for delivery via the shipping service provider to the intended recipient...")

- *receiving the product purchased by the customer and shipped via a carrier not associated with the ADL service provider at the ADL for pickup by the customer. (see at least paragraph 12: "...one aspect of the present invention provides a system and method for processing information associated with a package handled by a shipping service provider in connection with delivery of the package to an intended recipient,..."; paragraph 13: "...the system and method may include a package information processing component associated with the order-receiving system for processing information entered by the customer via the network accessible computer system and validating the information prior to generating the dispatch order. The order to ship a package may be an on call order for the shipping service provider to pick up the package at a place selected by the customer, or at a drop box, and deliver the package to the intended recipient...")*

10. With respect to Claims 3, 7, and 18

Simms discloses all of the above limitations, Simms further discloses,

- *wherein the customer selects the ADL most convenient to the customer from the list of ADLs*
- *the step of using a computer system to register the customer involves the customer providing the computer system identification of at least one retriever authorized by the customer to pick*

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- up the product at the ADL ,and the computer system storing the identification information in the memory,*
- *wherein the customer provides an address of the ADL location as the address for shipping the product in purchasing the product from a vendor (see at least paragraph 201: "...in response to selecting the ADDRESS BOOK button (not shown) from either the HOME PAGE or MEMBER SERVICES screen, the ISS 10 executes routine 290 to allow the user to view and/or change prestored addresses of intended recipients in an address book stored in the system on behalf of the user. Starting at step 332 the system displays an ADDRESS BOOK page (not shown), containing a list of the user's entries in his or her address book, and awaits the user's input...")*
  - *the method further comprising: verifying at the ADL that the retriever is authorized to receive the product from the identification information stored in the memory (see at least paragraph 69: "...In response, the SSP 14 may authorize the package sender 16 to print a shipping label 25 that will be acceptable to the SSP 14 as authorization to process the package 12...")*

11. With respect to Claims 8 and 9,

Simms discloses all of the above limitations, Simms further discloses,

- *notifying the customer that the product is available for pickup at the ADL. (see at least paragraph 96: "...the notion of e-mail notification to various parties of various aspects of package shipment, for example, order acceptance, package pickup, package en route, package delivery expected date and/or time, package delivery confirmation, package delivery type, package contents, etc., is considered within the scope of the present invention...")*
- *the step of using a computer system to register the customer involves the customer providing information of a preferred media for receiving notification that the product has arrived at the ADL to the computer system and the computer system storing the information of the preferred notification media in the memory, (see at least paragraph 128: "...the service options or accessories are selected, the billing/payment method is selected, and PLD*

information is routed to the mainframe computer 74 (FIG. 2). For the purpose of this description the term "accessories" generally refers to optionals added to standard shipping including but not limited to declared value, signature requirements, E-mail notification, and special handling instructions...")

- *the preferred notification media comprising at least one of telephone, email, pager, and the notifying is performed using the customer's preferred media.*(see at least paragraph 96: "...the preferred system includes an e-mail server 94 for transmitting and receiving e-mail messages...")

12. With respect to Claims 10 and 11,

Hilbush discloses all of the above limitations, Hilbush further discloses,

- *wherein an alternate delivery location tracking computer system (ATS) retrieves the information of the preferred indication media from the memory and notifies the customer of arrival of the product at the ADL., via the preferred indication media* (see at least paragraph 99: "...Upon completion of the validation processes, which includes a search of the shipping history database 60 to verify whether the particular shipping label has already been used, the authorization is sent to the sender's computer 20 to print a label on the sender's printer 28 while the order is forwarded to a dispatch system 102 forming a part of the ODS 34..")
- *wherein the ADL staff retrieves the information of the preferred indication media from the memory and notifies the customer that the product is available for pick up at the ADL via the preferred indication media.*(see at least paragraph 101: "...At the dispatch system 102, the order is processed, queued, and after a person and/or vehicle is selected for pickup, directed to a mobile message switch (MMS) 104, also a part of the ODS 34. The MMS is operative for transmitting the dispatch order to a selected person and/or vehicle via a communication means, such as radio, an e-mail message delivery system, a cellular telephone system, a pager system, a wireless personal communication system (PCS), an ARDIS network, Bluetooth devices, slotted ALOHA, or other proprietary or non-proprietary data

communications system. Those skilled in the art will understand and appreciate that the term "communication means" is expansive and the examples provided are by way of illustration and not limitation. The communication means illustrated and other equivalent message delivery methods may be employed to communicate a dispatch order to a selected person and/or vehicle for package pickup....")

13. With respect to Claim 13,

Hilbush discloses all of the above limitations, Hilbush further discloses,

- *accessing an alternate delivery location tracking system (ATS) to determine the status of the product in shipment from a vendor of the product to the customer.* (see at least paragraph 10: "...The present invention seeks to provide a network-based automated solution for multiple delivery ordering scenarios, accessible to large and small volume package senders through a computer at their own location, providing convenience, flexibility, and security in ordering shipping services and tracking shipments. ...").

14. With respect to Claim 14,

Hilbush discloses all of the above limitations, Hilbush further discloses,

- *providing the customer with an authorization number that the customer can use to access the ATS to determine status of the product during transit from the vendor to the ADL.*(see at least paragraph 13: "...The order-receiving system may be operative to provide predetermined print label indicia to the customer's network accessible computer system for printing a label for affixation to the package, the label including predetermined authenticity indicia Moreover, the order-receiving system may be operative to provide the print label indicia in response to validation of information input by the customer via the network accessible computer system, and the order-receiving system may be operative to accept information from the label during scanning of the label upon on call pickup or when processed at a drop box. The system may also provide a package shipment status information system operative for receiving status



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information, such as tracking information, corresponding to the status of shipment of the package and for providing the status information for access by the customer...")

15. With respect to Claim 19,

Hilbush discloses all of the above limitations, Hilbush further discloses,

- *wherein the registering involves the customer downloading a web browser enhancement tool that automatically populates the form fields of a web page to provide the ADL address for upload to a vendor computer system via the Internet to purchase the product.* (see at least paragraph 74: "...a preferred embodiment provides an Internet World Wide Web (WWW) front end 50 that generates the browser views for display on the package sender's computer 20. The web front end 50 is coupled to an internal network 52 operated by the SSP, which is coupled to other computing functions as described below. ...")

#### **Claim Rejections - 35 USC § 103**

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- a. Determining the scope and contents of the prior art.
- b. Ascertaining the differences between the prior art and the claims at issue.
- c. Resolving the level of ordinary skill in the pertinent art.
- d. Considering objective evidence present in the application indicating obviousness or nonobviousness.

18. Claims 12 and 15-17 are rejected under 35 USC 103(a) as being unpatentable over Hilbush, in view of Fleckenstein et al., US Patent Application Publication No US 2004/0211834 A1.

19. With respect to Claim 12,

Hilbush discloses all of the above limitations, Hilbush does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the vendor notifies the customer when the product is available for pick up at the ADL.* (see at least paragraph 43: "...the delivery service may be instructed by information in the profile to redirect any parcels shipped to the intended recipient's home address during the work week to be delivered to the intended recipient's business address. Additional profile instructions may include an email address for the intended recipient so that an email is sent to the intended recipient, or their designee, when a delivery is attempted at a certain location. This email may include, for example, the notice code and a hyper-link to the delivery service's website so that the intended recipient may update their personal profile thereby instructing the delivery service to take certain actions regarding the parcels that were attempted to be delivered. ...")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Internet package shipping systems and methods of Hilbush with the delivery system of Fleckenstein because it is an efficient means for notifying customers of product availability.

20. With respect to Claim 15,

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Hilbush discloses all of the above limitations, Hilbush does not distinctly disclose the following limitations, but Fleckenstein however, as shown discloses,

- *wherein the accessing is performed by ADL staff to determine the status of packages sent to, held by, and bound for the ADL.* (see at least paragraph 21: "...agent has obtained information about a delivery modification authorization 400 and the parcels 110, 120. In one embodiment, a delivery notice 20 may be left at the address 123 Elm Street. Such information may be obtained by use of, for example, a data acquisition device 30 that may include a radio frequency identification ("RFID") reader, a barcode scanner, etc....")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Internet package shipping systems and methods of Hilbush with the delivery system of Fleckenstein because it is an efficient means for indicating delivery status of packages.

21. With respect to Claim 16,

Simms discloses all of the above limitations, Simms does not distinctly disclose the following limitations, but Fleckenstein however, as shown discloses,

- *wherein the ATS is used by ADL staff to log the date of arrival of the package at the ADL and to track how long the package has been held by the ADL.*(see at least paragraph 95: "...Unless such information is already entered, the driver can also fill out preliminary information such as the date, delivery attempt no., COD status, any other needed information, and will then press "stop complete" on the data acquisition device. This completes the creation of a delivery stop record, which, under one embodiment of the present invention, may include but is not limited to the following data fields: package delivery address, item code, delivery modification authorization code(s), time and date, consignee, COD information, etc....")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Internet package shipping systems and methods of Hilbush with the delivery system

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of Fleckenstein because it is an efficient means for indicating that a delivery has been attempted or that the delivery has been modified.

22. With respect to Claim 17,

Simms discloses all of the above limitations, Simms does not distinctly disclose the following limitations, but Fleckenstein however, as shown discloses,

- *wherein the ATS is accessed by the ADL staff using an ADL computer system to record the identity of a retriever of the product.*(see at least paragraph 130: "...The customer will provide a delivery notice, a delivery notice number and/or some form of valid identification in order to retrieve the parcel(s) from the service center...")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Internet package shipping systems and methods of Hilbush with the delivery system of Fleckenstein because it is an efficient means for ensuring packages are retrieved by authorized customers.

### **Response to Arguments**

23. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37CFR 1.136(a).

25. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
26. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kimberly L. Evans** whose telephone number is **571.270.3929**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **John Weiss** can be reached at **571.272.6812**.
27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free). Any response to this action should be mailed to: **Commissioner of Patents and Trademarks**, P.O. Box 1450, Alexandria, VA 22313-1450 or faxed to **571-273-8300**. Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**: Randolph Building 401 Dulany Street, Alexandria, VA 22314.

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/JOHN G. WEISS/

Supervisory Patent Examiner, Art Unit 3629